

This record is a partial extract of the original cable. The full text of the original cable is not available.

251145Z Nov 05

C O N F I D E N T I A L SECTION 01 OF 02 CARACAS 003552

SIPDIS

ENERGY FOR CDAY, DPUMPHREY, AND ALOCKWOOD

E.O. 12958: DECL: 08/11/2015

TAGS: [EPET](#) [EINV](#) [ENRG](#) [VE](#)

SUBJECT: SHELL'S VIEWS ON OSA MIGRATION AND TAXES

REF: A. CARACAS 03000

[1](#)B. CARACAS 02506

[1](#)C. CARACAS 01496

Classified By: Economic Counselor Andrew N. Bowen for Reason 1.4 (D)

[1](#)1. (C) SUMMARY: Shell Venezuela President Sean Rooney (strictly protect) stated during a November 23 meeting with Petroleum Attach (Petatt) that he fully expects the GOV to follow through on threats to take over fields operated by foreign companies under operating service agreements (OSA) if the companies fail to sign a transition agreement to migrate their contracts to joint ventures by the end of the year. Rooney believes the GOV's extension until March 31 to migrate contracts to joint ventures will only apply to companies that sign transition agreements. He also believes all the companies holding out will cave and sign some sort of transition agreement before the end of the year. Rooney says he told Vice Minister Bernard Mommer the migration would create unstable arrangements that would not last. He also cautioned that the way the GOV was handling the migration would put a damper on future investment. Shell thought that it had reached an agreement with the GOV regarding its tax bill for USD 130 million but still faces an injunction on its accounts receivable. END SUMMARY

TRANSITION TO JOINT VENTURES: PRISONERS DILEMMA

[1](#)2. (C) As reported in Reftel A, Energy Minister Rafael Ramirez announced on September 26 that the GOV would take over fields operated under OSAs if companies failed to migrate their contracts to joint ventures controlled by PDVSA by the end of the year. The GOV recently sent companies letters stating that it would give them until March 31 to migrate their OSAs to joint ventures. Since the GOV did not make an official public statement, it was not clear if this extension applied to all companies or just companies that had signed the transition agreements. Shell Venezuela President Sean Rooney (strictly protect) told Petatt he fully expects the GOV to follow through on threats to take over fields operated by foreign companies under operating service agreements (OSA) if the companies fail to sign a transition agreement to migrate their contracts to joint ventures by the end of the year. Rooney believes the GOV's extension to migrate contracts to March 31 will only apply to companies that sign transition agreements. (NOTE: A Shell attorney told our economic specialist later in the day that the letter clearly stated companies would have to sign a transition agreement in order to receive the extension. END NOTE) According to Rooney, the five major international oil companies (IOCs) that have not signed transition agreements (Shell, Chevron, ExxonMobil, BP, and Total) have stayed in close touch with each other on the issue. However, he believes all of the companies holding out "will fold" and sign some sort of transition agreement before the end of the year.

[1](#)3. (C) Rooney told Petatt Shell's basic philosophy is preserve its presence in Venezuela so that it will be in a position to take advantage of any positive changes in GOV hydrocarbon policy. Although Rooney did not speculate on when or if the Chavez administration or a future administration would adopt a more positive attitude toward IOCs, he made it clear that Shell wanted to be ready to take advantage of any changes in policy. When Petatt noted Shell's position appeared to basically be the same as all of the other IOCs, Rooney speculated that ExxonMobil was the only possible candidate to take the GOV to arbitration. When Petatt opined that any IOC that took the GOV to arbitration would be forced out of the Venezuelan market, Rooney agreed. He also noted that once the market became more accommodating for IOCs, any IOC that took the GOV to arbitration would have to start from "zero" or a "negative number" since the company would have to reestablish its reputation in the market. Rooney said he did not believe ExxonMobil would take the GOV to arbitration over the OSAs since it only has a minority stake in a small field. COMMENT: In a meeting with ExxonMobil's Government Relations Manager Carlos Rodriguez earlier in the day, Rodriguez told Petatt ExxonMobil was

still waiting for a "triggering event" for arbitration. Rodriguez said ExxonMobil did not know what the event would be but it "would know it when it saw it". END COMMENT

14. (C) Rooney stated he told Vice Minister Bernard Mommer, who is handling the transition negotiations for the GOV, that the GOV's handling of the migration to date could cause it long-term problems. He also told Mommer the resulting joint venture companies would be just as "unstable" as the entities that emerged from the opening of the Venezuelan petroleum sector and that the GOV is jeopardizing future investment in the sector by IOCs. Rooney noted his company has little choice but to go along with the GOV's strong arm tactics if it is to preserve its significant investments in Venezuela. However, the GOV's actions to date on the migration issue will make it very difficult for Rooney or any other IOC executive to go to his board of directors and propose major new investments in Venezuela. (NOTE: Rooney did not tell Petoff what Mommer's reaction was. END NOTE).

WHAT HAPPENS TO THE OSA EMPLOYEES?

15. (C) Rumors have been swirling about the fate of IOC employees who will be assigned to the new joint venture companies after the migration. According to one rumor, PDVSA is trying to insert language into the joint venture agreements that give it the right to reassign joint venture employees to PDVSA operations. Another rumor is that PDVSA will fire all joint venture employees who signed the petition during the recall referendum.

16. (C) When Petatt raised the rumors with Rooney, he stated both rumors were false as far as he knew. He stated Shell is negotiating language with the GOV that would allow joint venture employees to be transferred to either of the joint venture partners in order to further their professional development. The transfers would be strictly voluntary. He also stated senior PDVSA officials have told him that employees who signed the petition during the referendum would not be fired. However, ex-PDVSA employees who participated in the 2002-3 strike would not be allowed to work in the joint venture companies.

TAXES: WHAT CONSTITUTES A DEAL?

17. (C) As reported in Reftels B & C, Shell received a tax bill for USD 130 million. In addition, the GOV has attached an equivalent amount of Shell's accounts receivable on the grounds that Shell was a "grave risk". According to Rooney, Shell and SENIAT, the Venezuelan tax authority, reached agreement on the tax bill almost two months ago. SENIAT said it would finalize the agreement within two weeks but has failed to give Shell any type of official notification regarding the settlement. Although SENIAT has repeatedly told Shell that the settlement is acceptable, it has not acted to lift the injunction. Since Shell has not been paid for months, it has had to take out loans from other members of the Shell operating group to cover operating expenses. Rooney said the Dutch ambassador was going to accompany him to a meeting with SENIAT Superintendent Jose Vielma Mora to see if SENIAT would lift the injunction.
Whitaker